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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

LAUSTEVEION JOHNSON,

Plaintiff,

v.

JAMES DZURENDA; FRANK DREESSEN;  
 REGINA BARRETT; JOSEPH LEWIS;  
 TIMOTHY KNATZ; DAVID WILLIS AND  
 JO GENTRY,

Defendants.

CASE NO. 2:17-cv-01671-APG-EJY

**STIPULATION AND ORDER TO  
 CONTINUE THE STATUS  
 CONFERENCE SCHEDULED FOR  
 JULY 8, 2022**

**(FIRST REQUEST)**

Plaintiff, Lausteveion Johnson (“Plaintiff”), by and through his appointed counsel, Frank M. Flansburg, III, Esq., Emily A. Ellis, Esq., and Troy P. Domina, Esq., of the law firm Brownstein Hyatt Farber Schreck, LLP, and Defendants, James Dzurenda, Regina Barrett, David Willis, and Jo Gentry (“Defendants”) by and through their counsel Aaron D. Ford, Esq., and Austin T. Barnum, Esq., hereby submit this Joint Stipulation and Order to Continue the Status Conference Scheduled for July 8, 2022, at 9:00 a.m.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. RELEVANT BACKGROUND**

On May 24, 2022, this Court ordered a status conference in this matter to be held on Friday, July 8, 2022 at 10:00am (the “Status Conference”) to discuss the pretrial needs of the case and schedule a trial date (the “Order”).<sup>1</sup> Counsel for plaintiff was to further confer with Plaintiff

<sup>1</sup> See Minute Order, dated May 24, 2022.

1 regarding previously proposed exhibits, witnesses, and motions *in limine* to help streamline pretrial  
 2 proceedings in the time between the Order and the Status Conference. Despite making appropriate  
 3 arrangements and preparation with the Nevada Department of Correction's telephonic and  
 4 electronic mail service providers, counsel for Plaintiff, Frank M. Flansburg, Emily A. Ellis, and  
 5 Troy P. Domina had difficulties communicating with Plaintiff, Lausteveion Johnson, in the  
 6 Northern Nevada Correctional Center in Carson City, Nevada. With assistance from Mr. Austin  
 7 Barnum at the Attorney General's office, Plaintiff's counsel was able to resolve the issue and  
 8 establish communication on June 23, 2022.

9 Since that time, Plaintiff's counsel and Plaintiff have worked diligently to prepare for the  
 10 Status Conference, but were unable to complete discussions regarding all of the topics and issues  
 11 necessary to participate in the Status Conference due to the delay in establishing communication.  
 12 As a result, the Parties conferred and request the Status Conference be continued to enable Plaintiff  
 13 and his counsel to complete their preparation, confer with Defendants' counsel, and report back to  
 14 the Court at a conference.

15 Plaintiff's counsel and Senior Deputy Attorney General Austin Barnum held a meet and  
 16 confer via teleconference concerning this extension on July 5, 2022. Mr. Barnum expressed no  
 17 objection and agreed to providing more time for Plaintiff and counsel to prepare.

## 18 II. LEGAL DISCUSSION

### 19 A. EXTENDING TIME.

20 (1) In General. When an act may or must be done within a specified time, the  
 21 court may, for good cause, extend the time:

22 (A) with or without motion or notice if the court acts, or if a request  
 is made, before the original time or its extension expires; or

23 (B) on motion made after the time has expired if the party failed to act  
 because of excusable neglect.

24 Fed.R.Civ.P. 6(b)(1).<sup>2</sup>

25  
 26 <sup>2</sup> LR IA 6-1(a): "A motion or stipulation to extend time must state the reasons for the  
 27 extension requested and must inform the court of all previous extensions of the subject deadline the  
 28 court granted." Further, a "stipulation or motion seeking to extend the time to file an opposition or  
 reply to a motion, or to extend the time fixed for hearing a motion, must state in its opening  
 paragraph the filing date of the subject motion or the date of the subject hearing." LR IA 6-1(c).

The United States Supreme Court has recognized, “Rule 6(b) gives the court *extensive flexibility* to modify the fixed time periods found throughout the rules, whether the enlargement is sought before or after the actual termination of the allotted time.” *Lujan v. Nat’l Wildlife Fed.*, 497 U.S. 871, 906 n. 7 (1990) (internal quotation marks and citation omitted) (emphasis added); *see also Perez-Denison v. Kaiser Found. Health Plan of the Nw.*, 868 F. Supp. 2d 1065, 1079 (D. Or. 2012) (citing and quoting *Lujan*, 497 U.S. at 906). Further, this rule, like all the Federal Rules of Civil Procedure is to be liberally construed to effectuate the general purpose of seeing that cases are tried on the merits. *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258 (9th Cir. 2010). Regarding “good cause,” it is a non-rigorous standard that has been construed broadly across procedural and statutory contexts. *Id.* (citing several circuits *Venegas–Hernandez v. Sonolux Records*, 370 F.3d 183, 187 (1st Cir.2004); *Thomas v. Brennan*, 961 F.2d 612, 619 (7th Cir.1992); *Lolatchy v. Arthur Murray, Inc.*, 816 F.2d 951, 954 (4th Cir.1987)).

Consequently, requests for extensions of time made before the applicable deadline has passed should “normally ... be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party.” *Ahanchian*, 624 F.3d at 1259 (quoting 4B Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1165 (3d ed. 2004).

Based on the foregoing, the Parties hereby stipulate and request the Court grant a two-week continuance to July 22, 2022, or a date at the Court’s convenience, for the Status Conference to enable Plaintiff and his counsel to complete their preparation and confer with Defendants’ counsel before reporting to the Court.

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**III. CONCLUSION**

For the reasons stated above, the Parties hereby stipulate and respectfully request the Court continue the Status Conference for a period of two weeks, to July 22, 2022, or to a date at the Court's convenience.

DATED this 6th day of July, 2022	DATED this 6 <sup>th</sup> day of July, 2022
BROWNSTEIN HYATT FARBER SCHRECK, LLP	STATE OF NEVADA OFFICE OF
BY: <u>/s/ Emily A. Ellis</u>	ATTORNEY GENERAL
FRANK M. FLANSBURG III, ESQ.,	BY: <u>/s/ Austin T. Barnum</u>
EMILY A. ELLIS, ESQ.,	AARON D. FORD, Attorney General
TROY P. DOMINA, ESQ.,	AUSTIN T. BARNUM
	Deputy Attorney General
<i>Attorneys for Plaintiff Lausteveion Johnson</i>	<i>Attorneys for Defendants Regina</i>
	<i>Barrett, Frank Dreesen, James</i>
	<i>Dzurenda, Timothy Knatz, Joseph</i>
	<i>Lewis, and David Willis</i>

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the foregoing stipulation is approved and the Status Conference currently scheduled for July 8, 2022, at 9:00 a.m. is VACATED and rescheduled for August 2, 2022 at 10:30 a.m.

IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE

DATE: July 8, 2022

**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Civil Procedure 5(b), and Section IV of the District of Nevada Electronic Filing Procedures, I hereby certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP and that on the 6<sup>th</sup> day of July, 2022, I caused to be served a true and correct copy of **STIPULATION AND ORDER TO CONTINUE THE STATUS CONFERENCE SCHEDULED FOR JULY 8, 2022 (FIRST REQUEST)**, via electronic service through the Court's CM/ECF Filing System, to all parties and counsel as identified on the court-generated Notice of Electronic Filing.

/s/ Paula Kay  
an employee of Brownstein Hyatt Farber Schreck, LLP